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C.F: 100/-

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

W.P. NO. ~~2160~~ 2115 /2003

WRIT PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA

PETITIONER : M/s. Khandelwal Dal Mill
Dhamdha Road, Chikhali,
Distt. Durg
Registered Partnership firm
Through Partner
Shri Kishan Khandelwal,
aged 50 years
S/o. Shri Ramdhan
Khandelwal, R/o.infront of Punjab
National Bank, Station Road
Durg (C.G.)

P.R. No. 1560/03
Presented by Shri Mrs. Sudha Agrawal
dated 06/06/03

6.6.03

VERSUS

RESPONDENT : Babulal Ashok Kumar Lunawat,
HUF. Through Babulal Lunawat
Aged 78 years S/o. Late Moti Lal
Lunawat, Tax consultant,
R/o. Station Road Durg (C.G.)

XI-HC-22

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 2115/03 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	26.03.2004 **Smt. Sudha Agrawal, counsel for the petitioner.** **The petitioner has preferred this writ petition under Article 227 of the Constitution of India being aggrieved by the order-dated 29.03.2003 passed by the learned 6th Addl. District Judge, Durg in Civil Suit No.11-B/2001 whereby the application of the petitioner herein for production of the documents was rejected.** **Brief facts leading to filing of this writ petition are that the respondent herein, who is a practicing lawyer on Income-tax side, filed a civil suit against the petitioner herein for recovery of Rs.2,38,000/-. In Paragraph 3 of plaint it has been mentioned that the respondent herein used to deposit the money in the petitioner's firm by cheque against the interest @ 12% p.a. It has been further mentioned that whatever amount is repaid by the present petitioner was also through cheques and ultimately it has been mentioned that Rs.1,75,000/- are due against the petitioner as principal amount and Rs.72,000/- are due towards the interest.** **Written statement on behalf of the petitioner herein has been filed. However, an application was filed by the petitioner herein before the trial Court seeking direction against the respondent herein to produce his income-tax return, account of interest received by him and the balance sheet for the period ranging between 01.04.1987 to 31.3.2001, but the same was rejected by the trial Court vide impugned order dated 29.03.2003 holding that these documents are not necessary for the just decision of the suit, therefore, the plaintiff cannot be directed to produce these documents.**	

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

I have heard learned counsel for the petitioner.

Learned counsel for the petitioner submits that the trial Court has decided the application without giving opportunity of hearing to the petitioner and moreover, documents filed in support of the plaint by the respondent are handwritten and they are not in proper form.

As far as the question of illegality in the impugned order is concerned; as mentioned above, the respondent herein filed a suit for recovery of the principal amount and interest thereon and it has been mentioned that all the amount was advanced by way of cheques, thus, the suit is based on the cheques given by the plaintiff to the present petitioner; therefore, I am of the opinion that the trial Court has not committed any illegality or irregularity while rejecting the application of the petitioner herein for producing the documents.

As far as the question that the respondent herein is doing the business of money lending is concerned that issue can be raised before the trial court and trial court shall decide the same in accordance with the law.

In view of the above, I do not find any substance in this writ petition, which is liable to be dismissed and is dismissed.

However, in view of the submission made by learned counsel for the petitioner that without giving any opportunity of hearing the trial Court has rejected the application filed for production of documents; it is expected that in future before passing any order the trial Court will give proper opportunity of hearing to the petitioner.

With the aforesaid direction, the petition stands disposed.

Certified copy as per Rules.

Sd/-
L.C. Bhadoo
Judge